

**FRANKFORT/FRANKLIN COUNTY
BOARD OF ZONING ADJUSTMENTS
September 7, 2006**

Chairman Keith Goins called the meeting to order at 5:30 p.m.
Recording Secretary Anna Carpenter called the roll.

MEMBERS PRESENT:	Keith Goins	
	Joyce Honaker	
	Barry Holder, Jr.	
	Doug Howard	
	Mitch Buchanan	
	Paul Looney	(6)

MEMBERS ABSENT:	Kathy Peale	(1)
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There being a quorum, the meeting proceeded. Chairman Goins introduced the Members of the Board, Anna Carpenter, recorder, Justin Evilsizor, City Staff Planner, Robert Hewitt, Senior City Staff Planner, and Board Attorney Mr. Logan.

Chairman Goins swore in the planning staff.

The first item of business was approval of the August 1, 2006 minutes. Chairman Goins made the motion to approve the minutes, and carried unanimously. (4-0). Mr. Buchanan and Ms. Honaker did not vote as they were absent at that meeting.

The next item of business, listed under Old Business on the Agenda, was a request in accordance with Articles 4, 18 and 19 of the City of Frankfort Zoning Ordinance, Katrina Smith is requesting approval of a Conditional Use Permit to operate a daycare center for three children in the principle structure located at 665 Blade Avenue, zoned RB – Residential B District. This item had been tabled from August 1, 2006 to the September 7, 2006 meeting, as Ms. Smith was not present for the meeting. Ms. Smith was also not present at the meeting at this time. Chairman Goins made a motion and seconded by Mr. Howard to table this item to the end of tonight's meeting, and carried unanimously (6-0).

The meeting proceeded.

The next item of business was a request in accordance with Article 4, 17 and 19 of the City of Frankfort Zoning Ordinance, Meyer-Schneider LLC is requesting a variance to Article 7.13, Landscape Requirements, specific to plantings within the 20-foot residential buffer, and a Conditional Use Permit to

construct seven (7) duplexes in a Residential C District located at 128-130 Rolling Acres Drive, zoned RC – Residential C District. Senior Staff Planner, Robert Hewitt presented this request to the Board.

Mr. Hewitt asked that the two requests be heard and voted on separately.

Mr. Hewitt stated that he found all positive findings for the landscape variance. He stated that based upon the Landscape Requirements Matrix in Article 7.13 of the Zoning Ordinance, the required minimum easement for portions of the property abutting single-family residences is 20-feet and the required planting material is either:

- 1 tree (from plant list A or B) planted at 45-feet on center plus a double row of 6-foot hedges (from plant list E), or
- A 6-foot wall, fence or earthbound plus hedges (from plant list D), or
- Continuous staggered double row planting of trees (from plant list C) at 15-feet on center.

Mr. Hewitt stated that there is an existing driveway on the subject property that serves 125 ½ Winding Way. He stated that the applicant is requesting to preserve the existing driveway, which encroaches into the 20-foot landscaping easement and is not permitted within a landscaping buffer. He also stated that the applicant is requesting a variance for the reduction to the minimum width of the landscaping buffer from 20-feet to approximately 8 feet.

Mr. Hewitt also stated that the subject property provides the only access to 125 ½ Winding Way by means of a single driveway, and that the existence of a driveway that serves an abutting property and the desire to preserve it is unique to the applicant's land. He also stated that the applicant has stated in his letter that there is no easement or agreement in place to protect its existence. Mr. Hewitt also stated that in order to properly preserve this driveway, a plat dedicating a cross-access easement should be recorded.

Mr. Hewitt stated that the strict application of this zoning ordinance would require the removal of any portion of the driveway located within the landscape buffer easement. He stated that while this would not deny the applicant reasonable use of the land, without the driveway and adjacent property owner's reasonable use of 125 ½ Winding Way could be adversely affected. He also stated that without a variance, the applicant could remove the driveway completely, and therefore force the adjacent owner to find an alternative means of accessing the property.

Mr. Hewitt also stated that the existing driveway was not the result of any actions taken by the applicant.

Mr. Hewitt stated that the applicant's request is an attempt to preserve some of the character of the neighborhood, leaving intact a driveway that serves the residents of an abutting parcel. He stated that the applicant's proposal would fulfill the requirements of the landscape matrix with regards to material and quantity and it is therefore unlikely that the request will harm the public safety.

Mr. Hewitt also stated that the applicant has stated in his letter that relocating the existing driveway would possibly force the owners of 125 ½ Winding Way to traverse a steep embankment.

Mr. Hewitt stated that based on the findings within his report, staff recommended Approval of the requested variance to reduce the width of landscaping easement from 20-feet to approximately 8-feet for the southwest portion of the property abutting 125 ½ Winding Way as recommended by the Landscape Committee.

Chairman Goins swore in Mr. Johnathan Otis, Otis Engineering, LLC, 234 West Main Street, Frankfort, KY.

Mr. Otis stated that the Landscape Committee made a positive recommendation. He stated that they are not gaining any additional building space.

Mr. Otis also stated that this parcel had been one big tract, but was subdivided. Mr. Otis stated that he had not spoken to the people at 125 ½ Winding Way personally. He also stated that they would use option 2 of Landscape Committee recommendation, and have a 6' wall, fence or earthbound. Mr. Otis further stated that the plans for the wall had not been approved.

Chairman Goins swore in Ted Ellis, 125 Winding Way, Frankfort, KY. Mr. Ellis stated that he was very concerned about privacy and was very upset. He stated that he did not want to look at buildings when he was outside. He also stated that 125 ½ Winding Way did not receive notification of the meeting tonight.

Chairman Goins swore in Virginia Ellis, 125 Winding Way, Frankfort, KY. Ms. Ellis stated that Linda Holt of 125 ½ Winding Way was not

present. She stated that she was worried about the noise and access. She also stated that Mr. Otis had answered most of their questions.

Mr. Otis stated that the driveway would not be used as an access road.

After further Board discussion, a motion was made by Mr. Buchanan that the request for the landscape variance is granted based on staff findings. Ms. Honaker seconded the motion and carried unanimously (6-0).

Mr. Hewitt stated that the requested use of 7 detached two-family residential use structures (14 units) all on one property served by a private driveway is consistent with the conditional uses for an RC Zoning District.

Mr. Hewitt stated that access to the site would not come from the existing driveway that serves 125 ½ Winding Way, but rather from Turnberry Drive. He stated that the road capacity and condition of Turnberry Drive is adequate to serve the anticipated additional traffic.

Mr. Hewitt stated that he found all positive findings for Section 19.01, general requirements that must be met in order for a Conditional Use Permit to be granted.

Mr. Hewitt stated that based on findings within the staff report, staff recommended Approval of the requested Conditional Use Permit to construct 7 duplexes with the following conditions: 1. The conditional use is permitted only for the F.P. Scott Estates Tracts 1 and 2, 2. The conditional use is only for two-family residences. Any other land use that requires a conditional use permit shall require approval from the Board of Zoning Adjustments prior to that change, 3. The conditional use is granted only to Meyer-Schneider, LLC, 4. The conditional use is not transferable and any change in ownership or use will make this approval null and void, 5. A plat establishing a access easement for the portion of the property (125 ½ Winding Way) where the existing driveway is located, be submitted, approved and recorded prior to the issuance of a Certificate of Occupancy.

Mr. Otis stated that they had satisfied all criteria for Section 19.01. He stated that the project meets the goals and objectives of the Comprehensive Plan.

Mr. Otis stated that the first four conditions are automatically attached to the Conditional Use, and thought they were redundant. He also

stated that the 5th condition not be attached to the Conditional Use Permit. He stated that he would ask that there not be any conditions.

Mr. Otis also stated that there would be a sign at the entrance. He also stated that all units would be rental units, with the same owner for all units. He stated that they would be managed, better kept, as opposed to single-family residences.

Ms. Ellis asked Mr. Otis if it would be Section 8 housing. Mr. Otis replied no.

Mr. Buchanan asked about the lighting scheme. Mr. Hewitt stated that lighting is not in the code requirement.

Mr. Otis also stated that trash pickup would be privately contracted.

There was no one else to speak for or against these requests.

After further Board discussion, Chairman Goins make the motion to approve the Conditional Use Permit based on the findings of fact given in the staff report. Mr. Holder seconded the motion and carried unanimously (6-0).

A motion was made by Mr. Howard at this time to deny the conditional use permit request by Katrina Smith, as she did not show up for the meeting. The motion was seconded by Mr. Buchanan. Those voting for the motion were Chairman Goins, Mr. Holder, Jr., Mr. Howard, Mr. Buchanan, and Mr. Looney. Those voting against the motion was Ms. Honaker. Therefore the motion passed (5-1) to deny the request.

As there was no further business before the Board, Chairman Goins made the motion to adjourn the meeting and carried unanimously (6-1).

Chairman, Keith Goins

Recording Secretary, Anna Carpenter